

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

v.

FRANCOIS KARAKE, *et al.*,

Defendants.

Criminal Action No. 02-256 (ESH)

ORDER

____ Upon consideration of the government's motion to reconsider and the opposition thereto, it is this 20th day of May, 2005, hereby

ORDERED that the motion will be **GRANTED** insofar as the government need not, at this time, produce the documents covered by the first paragraph of the Order dated February 28, 2005. Instead, the government is required to inform the Court and counsel, on or before May 27, 2005, whether it intends to amend its notice to eliminate or narrow any of the aggravating factors. It is the Court's intent to consider a schedule for discovery regarding the penalty phase at the upcoming status on June 6. At that status, the Court will also address the government's Motion for Scheduling and the BOP's opposition, to be filed on May 31, 2005, to providing access for a prison tour of ADX Florence (*see United States v. Edelin*, 180 F. Supp. 2d 73 (D.D.C. 2001)); and it is

FURTHER ORDERED that with respect to Mr. Ross' testimony, which the Court has reviewed *ex parte*, *in camera*, that the government shall produce the identifications and/or descriptions of any participants identified as leaders by Mr. Ross. As held by this Court in

United States v. Karake, 281 F. Supp. 2d 302 (D.D.C. 2003), evidence indicating that others were equally or more culpable constitutes mitigating evidence and is therefore producible under *Brady*. Mr. Ross's identifications and descriptions of others who may fall within this category must therefore be produced.

ELLEN SEGAL HUVELLE
United States District Judge

Date: May 19, 2005